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Application No. 10/604,297
Technology Center 3731
Amendment dated June 5, 2007
Submission Accompanying RCE under 37 CFR §1.114

JUN 05 2007

REMARKS

As of the filing of the present Office Action, claims 1, 2, 4-13, and 15-20 were pending in the above-identified US Patent Application. In the Office Action, the Examiner rejected claims 1, 2, 4, and 7-10 under 35 USC §102 as being anticipated by U.S. Patent No. 6,183,482 to Bates et al. (Bates), and rejected claims 5, 6, 11-13, and 15 -20 under 35 USC §103 as being unpatentable over Bates.

In the present response, independent claims 1 and 11 have been amended to recite that the legs (14) and actuating means/cable (18) are within and project from the passage of the sheath (12), a portion of the actuating means/cable (18) is accommodated within a circular opening defined by the legs (14) when in a stowed position within the sheath (12), and the distal ends (28) of the legs (14) and distal portion (16) of the actuating means/cable (18) are connected together so that in the deployed position the legs (14) define a basket (20) that surrounds the distal portion (16) of the actuating means/cable (18) and the basket (20) collapses around the distal portion (16) of the actuating means/cable (18) as the legs (14) are retracted into the sheath (12). Support for these limitations can be found in the specification at paragraph [0013], the second and last sentences of paragraph [0014], and the last

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sentence of paragraph [0015].

Dependent claims 8 and 9 have been amended to cancel a limitation that is redundant in view of their parent claim 1.

Applicant believes that the above amendments do not present new matter. Favorable reconsideration and allowance of claims 1, 2, 4-13, and 15-20 are respectfully requested in view of the above amendments and the following remarks.

Applicant's amended independent claims 1 and 11 require legs (14) that when retracted into a sheath (12) define a stowed position in which the legs (14) are substantially parallel to each other and define a tubular shape having a circular opening defined by a radially-inward concave surface of each leg (14) within which the cable (18) or other means for actuating the legs (14) is received. A distal portion of the cable (18) is attached to the distal ends (28) of the legs (14). Consequently, and as evident from Figures 1, 3, and 4, the cable (18) is free to move axially within the circular opening within the collapsed legs (14).

In contrast, Bates discloses a surgical device with legs that come together to form a base 18 attached to one end of a cable 23 (column 4, lines

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3-4; Figure 3). As such, contrary to Applicant's claimed device, the distal portion of Bates' cable 23 is not attached to the distal ends of the legs (at the tip 16), but to the proximal ends of the legs (at the base 18). Bates' cable 23 is never received in any opening defined when the legs are fully collapsed. That Bates does not contemplate the cable 23 ever being accommodated in an opening defined by the collapsed legs is evident from Bates' teachings that the "inner surfaces of [the] legs can be rough so as to enhance the stone-capturing and holding ability of the basket" (column 4, lines 62-64). Doing so would at best impede the cable 23 and at worst risk damage to the cable 23. As evident from Applicant's previous amendment filed September 21, 2006, Bates' crescent-shaped legs (Figure 8E) define an opening with four distinct lobes. The points of each crescent-shaped leg project into the opening and therefore also would risk damage to the cable 23 if the cable 23 were placed in the opening.

In view of the above, Applicant believes that Bates does not disclose or suggest a surgical device with expandable/retractable legs that are actuated with means accommodated within an opening formed by the legs and attached to distal ends of the legs. Applicant therefore respectfully requests withdrawal of the rejections under 35 USC §§102 and 103.

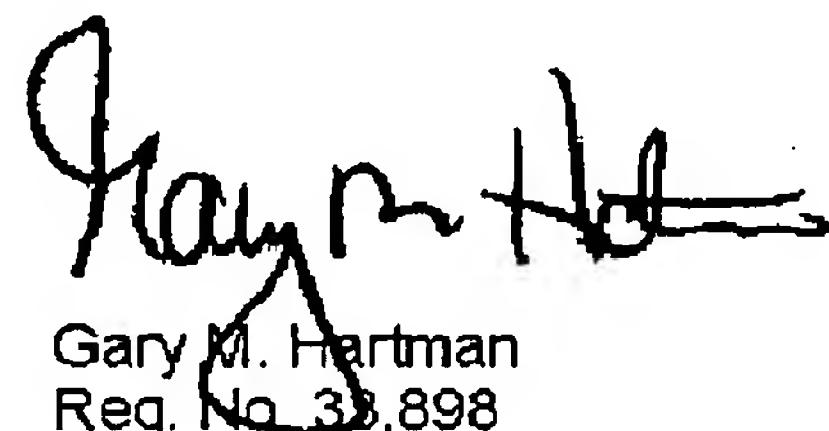
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Closing

For the above reasons, Applicant respectfully requests that his patent application be given favorable reconsideration. Should the Examiner have any questions with respect to any matter now of record, Applicant's representative may be reached at (219) 462-4999.

Respectfully submitted,



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Attachments: Request for Continued Examination (RCE) Transmittal (2 copies)